

**E.P.Balakrishnan Vs. K.K.Ashref Mohammed and Others**

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**Court :** Kerala State Consumer Disputes Redressal Commission SCDRC  
Thiruvananthapuram

**Decided On :** Mar-19-2008

**Judge :** Shri. M.V. Viswanathan: Judicial Member & Shri. S. Chandra Mohan Nair: Member

**Appeal No. :** APPEAL NO. 219 of 03

**Appellant :** E.P.Balakrishnan

**Respondent :** K.K.Ashref Mohammed and Others

**Judgement :**

SHRI. M.V. VISWANATHAN: JUDICIAL MEMBER

This appeal is preferred from the order dated.20.12.02 passed by the CDRF, Kannur in OP.304/99. The appellant herein filed the aforesaid Original Petition against the respondents 1 to 4 as opposite parties claiming compensation of Rs.1,01,269/- on the ground of deficiency of service on the part of the opposite parties 1 to 4. The case of the appellant/complainant was that the opposite parties collected excess labour charge @ Rs.50/- per point; that the agreed labour charge was @ Rs.22/- per point; that the wiring work was done by the electricians who was not having wiremen license; that there occurred delay in completing wiring to the residential building of the complainant and thereby caused hardship to the complainant; that the opposite parties compelled the complainant to purchase the

wiring materials from the shop in which they were interested and thereby the complainant sustained financial loss. It is also alleged that due deficiency of service on the part of the 1st opposite party as the electrical contractor, the complainant did not get the electricity connection to his residential building and thereby the complainant could not shift his residence to the newly constructed house building. The allegations leveled against the opposite parties were denied by the opposite parties by filing written version. They denied the alleged deficiency of service on their part in executing the wiring work in the residential building of the complainant. On an appreciation of the facts, circumstances and the evidence on record the Forum below dismissed the complaint in OP.304/99. Aggrieved by the said order the present appeal is preferred.

2. When this appeal was taken up for final hearing, there was no representation from the side of the respondents 1 to 4. The appellant appeared in person and submitted his arguments based on the grounds urged in the memorandum of the present appeal. He has also argued for the position that there was deficiency of services on the part of the officials of Kerala State Electricity Board because of the fact that they did not give electricity supply connection to the newly constructed residential building of the appellant/complainant. Thus, the appellant has also requested to proceed against the officials of the Kerala State Electricity Board for their failure to give the electricity connection to the newly constructed residential building of the complainant.

3. The points that arise for consideration are:-

1. Whether the alleged deficiency of service on the part of the respondents/opposite parties 1 to 4 can be upheld?
2. Whether the appellant/complainant is entitled to get any relief against the officials of the Kerala State Electricity Board?
3. Is there occurred any sustainable ground to interfere with the impugned order passed by the forum below in OP.304/99?

4. Points 1 to 3:-

For the sake of convenience we will refer the parties to this appeal according to their status before the lower forum in O.P.304/99.

5. The case of the complainant is that he engaged one Sajeevan to do the wiring work in the newly constructed residential building of the complainant and that the said Sajeevan had agreed to execute the wiring work @ of Rs.22/- per point. But admittedly the aforesaid Sajeevan is not a party in the complaint in OP.304/99. There is also nothing on record evidencing the agreement entered into between the complainant and the aforesaid Sajeevan for doing the electrical wiring @ Rs.22/- per point. The complainant has got another case that the first opposite party undertook the wiring work as the electrical contractor. There is no evidence to prove the case that the first opposite party agreed to do the wiring work @ Rs.22/- per point. The complainant himself has admitted the fact that the second opposite party was engaged and the complainant paid the labour charge @ Rs.50/- per point. It is to be noted that if there was an agreement to do the electrical wiring @ Rs.22/- per point, there was no necessity for the complainant to pay the labour charge @ Rs.50/- per point. The fact that the complainant paid the labour charge @ Rs.50/- per point would make it clear that there was no such agreement between the complainant and the opposite parties to execute the wiring work @ Rs.22/- per point. The case of the complainant that the opposite parties collected exorbitant amount towards the labour charge can not be believed or accepted. There is no reliable evidence forthcoming from the side of the complainant to establish that fact. The complainant has also got a case that wiring work at his friends house was done @ Rs.21/- per point. It is to be noted that the complainant has not examined any witness on his side to prove his case that the rate prevailed at the relevant time was only Rs.21/- per point. Thus, in all respects the aforesaid case of the complainant regarding demand and acceptance of exorbitant amount from the complainant for doing the wiring work in his house building can not be accepted.

6. The complainant has also got a case that the opposite parties caused delayed in executing the wiring work and thereby the complainant suffered hardship and inconvenience. There is nothing on record to substantiate the case of the complainant that the opposite parties had agreed to complete the wiring work

before 15th April. On the other hand, the facts and circumstances of the case would give an indication that the complainant failed to supply the wiring materials in time. The circumstance would also given an indication that the complainant was wandering here and there enquiring about the cost of wiring materials and thereby he himself caused the delay in getting the wiring work executed within a reasonable time. Moreover, there is no evidence on record to show that any of the opposite parties had given the assurance that the wiring work will be completed within a stipulated date . Thus, the complainant has also failed in proving his case that the opposite parties caused delay in executing the wiring work within a stipulated time.

7. The complainant has also alleged deficiency of service on the part of the opposite parties in compelling the complainant to purchase the wiring materials from the shop of their choice. But the materials available on record and also the relevant contention of the parties would show that the building materials were purchased by the complainant from the shop of his choice. It can be seen that the complainant was interested in purchasing the wiring materials from Mahi so as to get the materials at a reduced cost. There is nothing on record to inter that the opposite parties prevented the complainant from purchasing the wiring materials from the shop of complainants relative. It is to be noted that the complainant was at liberty to choose the shop where from wiring materials are to be purchased. It is also to be noted that the payments were also made by the complainant from his own pocket. So, there is no basis for the allegation that the complainant purchased the wiring materials against his own interest. On the other hand, the facts, circumstances and the evidence available on record would make it clear that the complainant purchased the wiring materials at his own risk and cost. Moreover, there is nothing on record to show that the complainant sustained any loss on account of purchase of wiring materials. So, the aforesaid case of the complainant that he suffered mental shock and hardship in the purchase of wiring materials can not be believed for a moment.

8. The complainant has also claimed refund of the amount deposited with the Kerala State Electricity Board. It is to be noted that the payment is collected by the Electricity Board from the complainant. So, there is no basis for claiming refund of

that amount from the opposite parties.

9. The complainant has also leveled allegation against the officials of Kerala State Electricity Board in their failure to give the electricity supply connection to the newly constructed residential building of the complainant. The evidence of the complainant as PW1 and the materials on record would show that the complainant was at fault and only because of his lapses he did not get the electricity supply connection to his residential building. The materials on record would also show that there occurred some defects or mistakes in the application submitted by the complainant before Kerala State Electricity Board and that the complainant was not prepared to cure the defects which were pointed out by the officials of Kerala State Electricity Board. Moreover, the complainant is not entitled to get any relief from the officials of Kerala state Electricity Board, because of the fact that the officials of Kerala State Electricity Board are not made parties to the complaint in OP.304/99.

10. The forum below has elaborately considered the allegations leveled against the opposite parties and that the forum below has also analyzed the facts circumstances and the evidence available on record in its correct perspective and rightly come to the conclusions that there was no deficiency of service on the part of the opposite parties. The Forum below had the opportunity to witness the demeanour of the complainant while giving evidence before the forum below as PW1. We do not find any ground to interfere with the findings and conclusions of the Forum below. The finding of the forum below that there was no deficiency of service on the part of the opposite parties is to be upheld. In all respects the present appeal is liable to be dismissed. Hence we do so.

In the result the appeal is dismissed. The impugned order dated.20.12.02 passed by the CDRF, Kannur in OP.304/99 is confirmed. The parties to this appeal are directed to suffer their respective costs.

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